

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 6029 of 2005

Petitioner	Bhagurathi, Son of Late Shri Khadak Singh Porte, aged about 32 years, Resident of village- Juheli, Police Station Seepat, Tahsil- Masturi, District- Bilaspur.
Versus	1. Parasram Oriker, son of Late Shri Makhan Oriker, aged about 35 years, Occupation- Agriculture, Resident of Village- Jeora, Tahsil Masturi, District- Bilaspur (C.G.).
2.	The Returning Officer and Election Officer, Block Masturi, District- Bilaspur (C.G.).
3.	The Collector, District Bilaspur (C.G.).

Single Bench : Hon'ble Mr. Justice S. R. Nayak, C.J.

Mr. Malay Bhaduri, Advocate for the petitioner.
Mr. Utkarsh Verma, Panel lawyer for respondents No. 2 and 3.

ORAL ORDER

(9th December, 2005)

The following order of the Court was passed by S. R. Nayak, C.J.

1. The petitioner was elected as a Member of the Jampad Panchayat Masturi, District Bilaspur in the year 2005. His election as Member of the Jampad Panchayat Masturi has been set aside by the District-Collector - third respondent herein on the ground that the third child of the petitioner was born on 9.4.2001 i.e. to say after the cut off date 26.1.2001 which fact operated as a disqualification for being elected as Member of Jampad Panchayat. Before passing the order, the District Collector issued notice to the petitioner and the petitioner had put in appearance before the District Collector.

2. In this writ petition it was contended by learned counsel for the petitioner quite strenuously that the District Collector did not give any opportunity to prove his case that the third child was in fact born on 10.1.2001, well before the cut off date 26.1.2001 and what is alleged against him to the contrary is an incorrect statement. There is absolutely no material placed before the Court to show that the petitioner made request to the District Collector to give him opportunity to adduce evidence in support of his case and the district Collector declined the opportunity. The District Collector was not expected to invite the petitioner to prove his case by evidence. If the District Collector were to decline opportunity to the petitioner to adduce evidence, certainly this Court would have stepped-in under Article 226 of the Constitution of India and corrected the wrongdoing, but, this is not the case in this petition. Secondly, the District Collector formed opinion on the basis of certificate issued by the Kotwar, and therefore, his finding cannot be condemned as irrational or the one not based on evidence. In that view of the matter, I do not find any merit in this writ petition and it is accordingly dismissed. No costs.

Sd/-
Chief Justice